

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Donaghy	Team: Squad #14	CCRB Case #: 201910564	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/01/2019 10:30 PM	Location of Incident: Intersection of Prospect Avenue and Elsmere Place	Precinct: 48	18 Mo. SOL 4/1/2021	EO SOL 11/16/2021	
Date/Time CV Reported Mon, 12/09/2019 6:35 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 12/09/2019 6:35 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			NARCBBX
2. DT3 Victor Defense	01120	941200	NARCBBX
3. An officer			NARCBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT David Camhi	00000	939965	NARCBBX
2. DT2 Daniel Rivera	07978	927418	NARCBBX
3. DT3 Jeremy Rodriguez	5913	934346	NARCBBX
4. DT3 James Causa	1852	950180	NARCBBX
5. DT3 Daniel Mahoney	06505	943509	NARCBBX
6. DT3 Braulio Aponte	175	948623	NARCBBX
7. DT3 Paul Zaino	04702	926336	NARCBBX
8. DT3 James Simpson	2444	943420	NARCBBX

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	
C. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
D. DT3 Victor Defense	Abuse: Detective Victor Defense refused to provide his name to § 87(2)(b)	
E. DT3 Victor Defense	Abuse: Detective Victor Defense refused to provide his shield number to § 87(2)(b)	
F. An officer	Abuse: An officer refused to provide his name to § 87(2)(b)	
G. An officer	Abuse: An officer refused to provide his shield number to § 87(2)(b)	

Case Summary

On December 9, 2019, § 87(2)(b) filed this complaint as a walk-in at the CCRB.

On October 1, 2019, at approximately 10:30 p.m., § 87(2)(b) was involved in a transaction for approximately \$10.00 to \$20.00 of marijuana inside of 1908 Prospect Avenue in the Bronx. After the transaction, § 87(2)(b) left the building and walked south across the intersection of Prospect Avenue and Elsmere Place in the Bronx. As he was crossing Prospect Place, approximately five to six unidentified officers from Bronx Narcotics approached § 87(2)(b) and allegedly pushed him into a fence abutting the northern side of Elsmere Place (**Allegation A: Force, § 87(2)(g)**). Multiple unknown officers allegedly punched § 87(2)(b) in his face, his right lower rib area, around his head, and on his neck, a total of approximately twenty times. Officers handcuffed § 87(2)(b) and allegedly continued to punch him after he was handcuffed (**Allegation B: Force, § 87(2)(g)**). The officers then threw § 87(2)(b) to the ground (**Allegation A continued**), whereupon he was allegedly punched approximately five more times by an unknown officer (**Allegation B continued**). § 87(2)(b) yelled at the officer who punched him on the ground, and the officer replied by telling § 87(2)(b) that he could take the handcuffs off § 87(2)(b) so they could fight (**Allegation C: Abuse of Authority, § 87(2)(g)**).

A few minutes later, an unmarked Ford arrived on the scene. Det. Victor Defense of Bronx Narcotics and an unidentified officer escorted § 87(2)(b) to the unmarked Ford, and § 87(2)(b) asked both Det. Defense and the unidentified officer what their names and shield numbers were. The unidentified officer told § 87(2)(b) that he would receive this information later at the stationhouse, but § 87(2)(b) was not subsequently provided with the names or shield numbers of either of these officers (**Allegation D: Abuse of Authority, § 87(2)(g)**) (**Allegation E: Abuse of Authority, § 87(2)(g)**) (**Allegation F: Abuse of Authority, § 87(2)(g)**) (**Allegation G: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(b) was arrested on a top charge of § 87(2)(b), § 87(2)(a) 160.50 (Board Review 01). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

There is no video evidence in this case, as at the time of this incident, Bronx Narcotics was not equipped with body-worn cameras (BWCs).

Findings and Recommendations

Allegation (A) Force: Officers used physical force against § 87(2)(b)

Allegation (B) Force: Officers used physical force against § 87(2)(b)

Allegation (C) Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

During his CCRB interview (Board Review 03), § 87(2)(b) stated that on October 1, 2019, at approximately 10:30 p.m., he was approached by § 87(2)(b), § 87(2)(f) § 87(2)(b) went with this individual into the building at 1908 Prospect Avenue in the Bronx, where § 87(2)(b) was involved in a transaction for approximately ten to twenty dollars of marijuana. After leaving the building, § 87(2)(b) walked towards the intersection of Elsmere Place and Prospect Avenue in the Bronx and began to cross it to the north. § 87(2)(b), § 87(2)(f)

At that moment, five or six plainclothes officers from Bronx Narcotics exited an unmarked Ford vehicle near the intersection and approached § 87(2)(b) § 87(2)(b) became aware of these officers when they made physical contact with him and immediately pushed him across the

intersection and face first into a fence on the northern side of the intersection. § 87(2)(b) stated that, without giving him any orders or instructions, these officers began to punch him in the face, his right lower rib area, around his head, and on his neck. § 87(2)(b) was handcuffed, and alleged that officers still punched him after he was handcuffed. § 87(2)(b) believed that he was struck approximately twenty times. § 87(2)(b) who was facing away from the officers, was not able to see which officers struck him while he was against the fence.

§ 87(2)(b) was then thrown to the ground by officers he was not able to see, landing on the ground. § 87(2)(b) then alleged that an unidentified officer struck § 87(2)(b) approximately five more times on the face and his body while he was lying on the ground and handcuffed. A few moments later, when officers lifted § 87(2)(b) off the ground, an unidentified officer offered to take § 87(2)(b)'s handcuffs off so that he and § 87(2)(b) could fight.

§ 87(2)(b) could only recall a physical description of one of the subject officers who allegedly used physical force. This officer, who § 87(2)(b) described as an approximately 5'6" to 5'7" tall, white male in his 30s with black hair and a small, square face, an athletic build, and wearing a black shirt, was the officer who allegedly struck him after he was on the ground in handcuffs, and who later offered to take § 87(2)(b)'s handcuffs off so that he and § 87(2)(b) could fight.

§ 87(2)(b) provided photos of bruising to his right forehead and a red mark under his left eye (Board Review 15), and the same alleged injuries also appear in the arrest photo of § 87(2)(b) from this incident (Board Review 16). § 87(2)(b) did not request or seek medical attention for any injuries sustained during this incident.

§ 87(2)(b) was arrested during a Buy-Bust Operation organized by Bronx Narcotics, as documented in a Post-Tactical plan generated following this operation (Board Review 04). The Team Leader for this operation was Lieutenant David Camhi, the arresting officer was Det. Defense, and the other officers identified as part of this operation were Det. Daniel Rivera, Det. James Causa, Det. Daniel Mahoney, Det. Braulio Aponte, Det. Paul Zaino, Det. James Simpson, and Det. Jeremy Rodriguez, all of Bronx Narcotics. Only one vehicle from this operation was a Ford, which was assigned to prisoner transport and was only operated by two officers, Det. Aponte and Det. Simpson.

During their CCRB interviews, Lieutenant Camhi (Board Review 05), Det. Causa (Board Review 06), Det. Defense (Board Review 07), Det. Mahoney (Board Review 08), Det. Rivera (Board Review 09), Det. Zaino (Board Review 10), Det. Simpson (Board Review 11), and Det. Aponte (Board Review 12) all stated that they did not have any independent recollection of the arrest of § 87(2)(b). § 87(2)(e), § 87(2)(f)

§ 87(2)(b)

§ 87(2)(b)

The arrest report for § 87(2)(b) (Board Review 01), prepared by Det. Defense, documented that no force was used on § 87(2)(b) during his arrest. No Threat, Resistance, and Injury Report Worksheet was prepared in relation to this incident (Board Review 14).

Though § 87(2)(b) described an approximately 5'6" to 5'7" tall, White male in his 30s with black hair and a small, square face, an athletic build, and who was wearing a black shirt, a review of the Member-of-Service photos from this incident (Board Review 17) found that no officer matched this exact description, and that multiple officers, including Det. Zaino, Det. Simpson, Det. Mahoney, and Det. Aponte, who are all white or Hispanic men with black hair, partially matched the description. However, as discussed above, Det. Zaino (Board Review 10), Det. Simpson (Board Review 11), Det. Mahoney (Board Review 08), and Det. Aponte (Board Review 12) all did not have any recollection of this incident.

§ 87(2)(b) stated that force was used against him by multiple officers during this incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(g)

Allegation (D) Abuse of Authority: Detective Victor Defense refused to provide his name to

§ 87(2)(b)

Allegation (E) Abuse of Authority: Detective Victor Defense refused to provide his shield number to § 87(2)(b)

Allegation (F) Abuse of Authority: An officer refused to provide his name to § 87(2)(b)

Allegation (G) Abuse of Authority: An officer refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that approximately five minutes after he was arrested, a black male officer, identified by the investigation as Det. Defense, and an additional unidentified officer walked him from the corner of Prospect Avenue and Elsmere Place to a vehicle § 87(2)(e). As § 87(2)(b) was being escorted by Det. Defense and the unidentified officer, § 87(2)(b) asked both of the officers for their names and shield numbers. One of the officers, § 87(2)(b) could not see who because both officers were behind his back at this point, replied that § 87(2)(b) would receive that information once he was at the stationhouse. However, § 87(2)(b) alleged that he was never provided any names or the shield numbers at the stationhouse.

§ 87(2)(g), § 87(2)(e)

§ 87(2)(b) was not able to provide any description of the unidentified officer who helped Det. Defense escort him to the prisoner van.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 19).
- Det. Defense has been a member of service for fifteen years and has been a subject in six previous CCRB complaints and 12 allegations, of which one was substantiated.
 - 201014270 involved substantiated allegations of a stop against Det. Defense. The Board recommended Command Discipline and the NYPD imposed Command Discipline.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.

- § 87(2)(b) | §§ 86(1)(3)&(4) | § 87(2)(c)

Squad: 14

Investigator:	<u>Matthew Donaghy</u>	<u>Inv. Matthew Donaghy</u>	<u>December 1, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel December 3, 2021
Signature Print Title & Name Date

Reviewer: _____

Signature	Print Title & Name	Date
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